In the High Court of Uttaranchal at Nainital.

Civil Writ Petition No. 974/2003

Suresh Chandra ..Petitioner.

Vs.

Additional District Judge 3rd

U.S.Nagr and 4 others …Respondents.

Dated: 27.9.2004.

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 28-5-2003 passed by the Additional District Judge 3rd Udham Singh Nagar.

Briefly stated the facts of the case are that the petitioner has filed a suit for permanent injunction restraining the respondents from interfering in the peaceful possession of the land in suit, in the Court of Civil Judge (J.D.) Rudrapur, District Udham Singh Nagar. Along with the suit the petitioner has also filed an application for temporary injunction. The Civil Judge after considering the facts and circumstances of the case has allowed the application and directed the respondents not to interfere in the peaceful possession of the petitioner on Khata no. 381. Aggrieved by the aforesaid order the respondent nos. 2 to 4 have filed misc. appeal before the respondent no.1. The appellate court has allowed the appeal.

During the hearing of the writ petition both the parties have agreed that the suit itself may be directed to be decided within a period of four months from the date of filing of the certified copy of this order and till then the parties may be directed to maintain status quo.

However it is made clear that any findings recorded by the appellate authority on the question of prima facie case, balance of convenience or irreparable injury shall not influence the trial court while deciding the case on merits.

Subject to the aforesaid observations the writ petition is disposed of finally. No order as to costs.

ISB **(Rajesh Tandon, J.)**